



Paper 5

MERCK AND CO., INC  
P O BOX 2000  
RAHWAY NJ 07065-0907

**COPY MAILED**

DEC 14 2006

In re Application of  
Robert K. Evans  
Application No. 09/888,304  
Filed: June 22, 2001  
Attorney Docket No. 20703Y

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the petition filed December 7, 2006 to withdraw the holding of abandonment for the above-identified application. The petition is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on October 11, 2001 for failure to file a timely response to the Notice to File Missing Parts mailed August 10, 2001, which set a two (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed April 22, 2005.

Petitioner asserts that a proper response, was mailed on September 27, 2001. In support, petitioner submits a copy of the reply in the form of the executed oath or declaration, said to have been filed but not acknowledged with the U.S. Patent and Trademark Office, which includes a certificate of mail dated September 27, 2001, pursuant to 37 CFR 1.8.

The evidence submitted corroborates a timely response to the Notice to File Missing Parts. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee is due and none has been charged.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions